

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE	7-20-2009
NAME OF SERVER (PRINT)	TITLE	
Evan Rhodes		

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: 712 Morris Camp highway
Benton, KY

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
		\$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 7-20-2009

E Rhodes
Signature of Server

MLQ ATTORNEY SERVICES
2000 RIVEREDGE PARKWAY NW
Address of Server
SUITE 885
ATLANTA, GA 30328
1-800-446-8794

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure



30308

DUPLICATE**AO 440 (Rev. 04/08) Civil Summons**

UNITED STATES DISTRICT COURT
 for the
Northern District of Georgia

<u>TPI HOLDINGS, INC., et al.</u> <u>Plaintiff</u> <u>v.</u> <u>WESLEY SMITH, et al.</u> <u>Defendant</u>	<u>)</u> <u>)</u> <u>)</u> <u>)</u>	<u>Civil Action No.</u> 1 09-cv-1919
---	--	--

Summons in a Civil Action

To: (Defendant's name and address)

Jimmie Smith
 712 Moors Camp Highway
 Benton, Kentucky 42025

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Judith A. Powell
 Kilpatrick Stockton LLP
 1100 Peachtree Street, Suite 2800
 Atlanta, Georgia 30309-4530

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JAMES N. HATTEN

Date: 16 JUL 2009

Name of clerk of court

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

Case 1:09-cv-
DUPLICATE

1 09-cv-1919

JS44 (Rev. 1/08 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S) TPI HOLDINGS, INC., and DOMINION ENTERPRISES	DEFENDANT(S) WESLEY SMITH, JIMMIE SMITH, and MACKENZIE SMITH, individually and dba Motohost, and JOHN DOES 1 through 10																												
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Fulton County, Georgia</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <small>(IN U.S. PLAINTIFF CASES ONLY)</small>																												
(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)	ATTORNEYS (IF KNOWN)																												
Judith A. Powell Kilpatrick Stockton LLP 1100 Peachtree Street, Suite 2800 Atlanta, Georgia 30309-4530 (404) 815-6433 jpowell@kilpatrickstockton.com																													
II. BASIS OF JURISDICTION <small>(PLACE AN "X" IN ONE BOX ONLY)</small>																													
<input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF <input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)	III. CITIZENSHIP OF PRINCIPAL PARTIES <small>(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)</small>																												
<input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT <input type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)	<table border="0"> <tr> <td style="text-align: center;">PLF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PLF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td colspan="2">CITIZEN OF THIS STATE</td> <td colspan="2">INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE</td> </tr> <tr> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td colspan="2">CITIZEN OF ANOTHER STATE</td> <td colspan="2">INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE</td> </tr> <tr> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> <tr> <td colspan="2">CITIZEN OR SUBJECT OF A FOREIGN COUNTRY</td> <td colspan="2">FOREIGN NATION</td> </tr> </table>	PLF	DEF	PLF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	CITIZEN OF THIS STATE		INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE		<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	CITIZEN OF ANOTHER STATE		INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE		<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY		FOREIGN NATION	
PLF	DEF	PLF	DEF																										
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4																										
CITIZEN OF THIS STATE		INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE																											
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5																										
CITIZEN OF ANOTHER STATE		INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE																											
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6																										
CITIZEN OR SUBJECT OF A FOREIGN COUNTRY		FOREIGN NATION																											
IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)																													
<input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING <input type="checkbox"/> 2 REMOVED FROM STATE COURT <input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT <input type="checkbox"/> 4 REINSTATED OR REOPENED	<input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District) <input type="checkbox"/> 6 MULTIDISTRICT LITIGATION <input type="checkbox"/> 7 FROM MAGISTRATE JUDGE JUDGMENT																												
V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)																													
15 U.S.C. Sections 1051-1127, 15 U.S.C. Section 1125(d); trademark infringement, cybersquatting and unfair competition																													
(IF COMPLEX, CHECK REASON BELOW)																													
<ul style="list-style-type: none"> <input type="checkbox"/> 1. Unusually large number of parties. <input type="checkbox"/> 6. Problems locating or preserving evidence <input type="checkbox"/> 2. Unusually large number of claims or defenses. <input type="checkbox"/> 7. Pending parallel investigations or actions by government. <input type="checkbox"/> 3. Factual issues are exceptionally complex <input type="checkbox"/> 8. Multiple use of experts. <input type="checkbox"/> 4. Greater than normal volume of evidence. <input type="checkbox"/> 9. Need for discovery outside United States boundaries. <input type="checkbox"/> 5. Extended discovery period is needed. <input type="checkbox"/> 10. Existence of highly technical issues and proof. 																													

CONTINUED ON REVERSE

FOR OFFICIAL USE ONLY

RECEIVED AMOUNT APPLYING FOR WITNESS TO JUDGE
JUDGE JUDGE RECEIVED WITNESS TO JUDGE

DUPLICATE

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

JUL 16 2009

JAMES N. HATTEN, Clerk
By: *[Signature]* Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TPI HOLDINGS, INC., and DOMINION
ENTERPRISES,

Plaintiffs,

v.

WESLEY SMITH, JIMMIE SMITH, and
MACKENZIE SMITH, individually and
dba Motohost, and JOHN DOES 1
through 10

Defendants.

Civil Action No.:

1 09-cv-1919

COMPLAINT

Plaintiffs TPI Holdings, Inc. and Dominion Enterprises (collectively "TPI") state the following for their Complaint against Defendants Wesley Smith, Jimmie Smith, and MacKenzie Smith, individually and dba Motohost, and John Does 1 through 10 (collectively "Defendants"):

Nature of the Action

1. This is an action at law and in equity for trademark infringement, cybersquatting, and unfair competition arising under the federal Lanham Act, codified as amended at 15 U.S.C. §§ 1051-1127, the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), and state statutory and common law, arising out

/ **DUPLICATE**FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

JUL 16 2009

JAMES N. HATTEN, Clerk
By: *J. N. Hatten* Deputy ClerkUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISIONTPI HOLDINGS, INC., and DOMINION)
ENTERPRISES,)

Plaintiffs,)

Civil Action No.:

v.)

WESLEY SMITH, JIMMIE SMITH, and)
MACKENZIE SMITH, individually and)
dba Motohost, and JOHN DOES 1)
through 10)

Defendants.)

1 09-cv-1919**CERTIFICATE OF INTERESTED PERSONS AND**
CORPORATE DISCLOSURE STATEMENT

(1) The undersigned counsel of record for a party to this action certifies that the following is a full and complete list of all parties in this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party:

TPI Holdings, Inc.

Dominion Enterprises

Wesley Smith

Jimmie Smith

MacKenzie Smith